

(2) any cause of action arising from undertakings commenced before January 1, 1978;

(3) activities violating legal or equitable rights that are not equivalent to any of the exclusive rights within the general scope of copyright as specified by section 106; or

(4) State and local landmarks, historic preservation, zoning, or building codes, relating to architectural works protected under section 102(a)(8).

[See main edition for text of (c) to (e)]

(f)(1) On or after the effective date set forth in section 610(a) of the Visual Artists Rights Act of 1990, all legal or equitable rights that are equivalent to any of the rights conferred by section 106A with respect to works of visual art to which the rights conferred by section 106A apply are governed exclusively by section 106A and section 113(d) and the provisions of this title relating to such sections. Thereafter, no person is entitled to any such right or equivalent right in any work of visual art under the common law or statutes of any State.

(2) Nothing in paragraph (1) annuls or limits any rights or remedies under the common law or statutes of any State with respect to—

(A) any cause of action from undertakings commenced before the effective date set forth in section 610(a) of the Visual Artists Rights Act of 1990;

(B) activities violating legal or equitable rights that are not equivalent to any of the rights conferred by section 106A with respect to works of visual art; or

(C) activities violating legal or equitable rights which extend beyond the life of the author.

(As amended Pub. L. 101-650, title VI, § 605, title VII, § 705, Dec. 1, 1990, 104 Stat. 5131, 5134.)

#### REFERENCES IN TEXT

Section 610(a) of the Visual Artists Rights Act of 1990 [Pub. L. 101-650], referred to in subsec. (f)(1), (2)(A), is set out as an Effective Date note under section 106A of this title.

#### AMENDMENTS

1990—Subsec. (b)(4). Pub. L. 101-650, § 705, added par. (4).

Subsec. (f). Pub. L. 101-650, § 805, added subsec. (f).

#### EFFECTIVE DATE OF 1990 AMENDMENT

Amendment by section 605 of Pub. L. 101-650 effective 6 months after Dec. 1, 1990, see section 610 of Pub. L. 101-650, set out as an Effective Date note under section 106A of this title.

Amendment by section 705 Pub. L. 101-650 applicable to any architectural work created on or after Dec. 1, 1990, and any architectural work, that, on Dec. 1, 1990, is unconstructed and embodied in unpublished plans or drawings, except that protection for such architectural work under this title terminates on Dec. 31, 2002, unless the work is constructed by that date, see section 706 of Pub. L. 101-650, set out as a note under section 101 of this title.

### CHAPTER 4—COPYRIGHT NOTICE, DEPOSIT, AND REGISTRATION

#### § 411. Registration and infringement actions

(a) Except for actions for infringement of copyright in Berne Convention works whose

country of origin is not the United States and an action brought for a violation of the rights of the author under section 106A(a), and subject to the provisions of subsection (b), no action for infringement of the copyright in any work shall be instituted until registration of the copyright claim has been made in accordance with this title. In any case, however, where the deposit, application, and fee required for registration have been delivered to the Copyright Office in proper form and registration has been refused, the applicant is entitled to institute an action for infringement if notice thereof, with a copy of the complaint, is served on the Register of Copyrights. The Register may, at his or her option, become a party to the action with respect to the issue of registrability of the copyright claim by entering an appearance within sixty days after such service, but the Register's failure to become a party shall not deprive the court of jurisdiction to determine that issue.

[See main edition for text of (b)]

(As amended Pub. L. 101-650, title VI, § 606(c)(1), Dec. 1, 1990, 104 Stat. 5131.)

#### AMENDMENTS

1990—Subsec. (a). Pub. L. 101-650 inserted “and an action brought for a violation of the rights of the author under section 106A(a)” after “United States”.

#### EFFECTIVE DATE OF 1990 AMENDMENT

Amendment by Pub. L. 101-650 effective 6 months after Dec. 1, 1990, see section 610 of Pub. L. 101-650, set out as an Effective Date note under section 106A of this title.

#### § 412. Registration as prerequisite to certain remedies for infringement

In any action under this title, other than an action brought for a violation of the rights of the author under section 106A(a) or an action instituted under section 411(b), no award of statutory damages or of attorney's fees, as provided by sections 504 and 505, shall be made for—

[See main edition for text of (1) and (2)]

(As amended Pub. L. 101-650, title VI, § 606(c)(2), Dec. 1, 1990, 104 Stat. 5131.)

#### AMENDMENTS

1990—Pub. L. 101-650 inserted “an action brought for a violation of the rights of the author under section 106A(a) or” after “other than” in introductory provisions.

#### EFFECTIVE DATE OF 1990 AMENDMENT

Amendment by Pub. L. 101-650 effective 6 months after Dec. 1, 1990, see section 610 of Pub. L. 101-650, set out as an Effective Date note under section 106A of this title.

### CHAPTER 5—COPYRIGHT INFRINGEMENT AND REMEDIES

Sec.  
511.

Liability of States, instrumentalities of States, and State officials for infringement of copyright.

## AMENDMENTS

1990—Pub. L. 101-553, § 2(a)(3), Nov. 15, 1990, 104 Stat. 2750, added item 511.

## § 501. Infringement of copyright

(a) Anyone who violates any of the exclusive rights of the copyright owner as provided by sections 106 through 118 or of the author as provided in section 106A(a), or who imports copies or phonorecords into the United States in violation of section 602, is an infringer of the copyright or right of the author, as the case may be. For purposes of this chapter (other than section 506), any reference to copyright shall be deemed to include the rights conferred by section 106A(a). As used in this subsection, the term "anyone" includes any State, any instrumentality of a State, and any officer or employee of a State or instrumentality of a State acting in his or her official capacity. Any State, and any such instrumentality, officer, or employee, shall be subject to the provisions of this title in the same manner and to the same extent as any nongovernmental entity.

*[See main edition for text of (b) to (e)]*

(As amended Pub. L. 101-553, § 2(a)(1), Nov. 15, 1990, 104 Stat. 2749; Pub. L. 101-650, title VI, § 606(a), Dec. 1, 1990, 104 Stat. 5131.)

## AMENDMENTS

1990—Subsec. (a). Pub. L. 101-650 inserted "or of the author as provided in section 106A(a)" after "118" and substituted "copyright or right of the author, as the case may be. For purposes of this chapter (other than section 506), any reference to copyright shall be deemed to include the rights conferred by section 106A(a)." for "copyright."

Pub. L. 101-553 inserted sentences at end defining "anyone" and providing that any State and any instrumentality, officer, or employee be subject to the provisions of this title in the same manner and to the same extent as any nongovernmental entity.

## EFFECTIVE DATE OF 1990 AMENDMENTS

Amendment by Pub. L. 101-650 effective 6 months after Dec. 1, 1990, see section 610 of Pub. L. 101-650, set out as an Effective Date note under section 106A of this title.

Section 3 of Pub. L. 101-553 provided that: "The amendments made by this Act [enacting section 511 of this title and amending this section and sections 910 and 911 of this title] shall take effect with respect to violations that occur on or after the date of the enactment of this Act [Nov. 15, 1990]."

## § 503. Remedies for infringement: Impounding and disposition of infringing articles

## SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in sections 109, 111, 115, 116, 119, 411, 510, 511 of this title.

## § 504. Remedies for infringement: Damages and profits

## SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in sections 109, 111, 115, 116, 119, 401, 402, 405, 411, 412, 510, 511 of this title; title 28 section 1498.

## § 505. Remedies for infringement: Costs and attorney's fees

## SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in sections 109, 111, 115, 116, 119, 411, 412, 510, 511 of this title.

## § 506. Criminal offenses

*[See main edition for text of (a) to (e)]*

(f) RIGHTS OF ATTRIBUTION AND INTEGRITY.—Nothing in this section applies to infringement of the rights conferred by section 106A(a).

(As amended Pub. L. 101-650, title VI, § 606(b), Dec. 1, 1990, 104 Stat. 5131.)

## AMENDMENTS

1990—Subsec. (f). Pub. L. 101-650 added subsec. (f).

## EFFECTIVE DATE OF 1990 AMENDMENT

Amendment by Pub. L. 101-650 effective 6 months after Dec. 1, 1990, see section 610 of Pub. L. 101-650, set out as an Effective Date note under section 106A of this title.

## SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in sections 109, 111, 115, 116, 119, 411, 501, 509 of this title; title 18 section 2319.

## § 510. Remedies for alteration of programing by cable systems

## SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in sections 111, 119, 411, 511 of this title.

## § 511. Liability of States, instrumentalities of States, and State officials for infringement of copyright

(a) IN GENERAL.—Any State, any instrumentality of a State, and any officer or employee of a State or instrumentality of a State acting in his or her official capacity, shall not be immune, under the Eleventh Amendment of the Constitution of the United States or under any other doctrine of sovereign immunity, from suit in Federal court by any person, including any governmental or nongovernmental entity, for a violation of any of the exclusive rights of a copyright owner provided by sections 106 through 119, for importing copies of phonorecords in violation of section 602, or for any other violation under this title.

(b) REMEDIES.—In a suit described in subsection (a) for a violation described in that subsection, remedies (including remedies both at law and in equity) are available for the violation to the same extent as such remedies are available for such a violation in a suit against any public or private entity other than a State, instrumentality of a State, or officer or employee of a State acting in his or her official capacity. Such remedies include impounding and disposition of infringing articles under section 503, actual damages and profits and statutory damages under section 504, costs and attorney's fees under section 505, and the remedies provided in section 510.

(Added Pub. L. 101-553, § 2(a)(2), Nov. 15, 1990, 104 Stat. 2749.)